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Human Rights Committee
113th session

Summary record of the 3138th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 17 March 2015, at 3 p.m.

Chairperson: Mr. Salvioli

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Second periodic report of Cambodia

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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1505581

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Second periodic report of Cambodia (CCPR/C/KHM/2; CCPR/C/KHM/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Cambodia took places at the Committee table.*

2. **Mr. Mak** Sambath (Cambodia) said that work on the establishment of a national human rights institution had begun in 1997, when a committee had been set up to draft the necessary legislation. Thereafter, progress had stalled, however. In 2006, a workshop on the corresponding legislation had been attended by representatives from other countries in the region, government agencies and civil society organizations. A number of NGOs and civil society organizations had subsequently been tasked with drawing up a draft law, and a delegation had travelled to the Philippines in order to benefit from the lessons learned by that country. The draft law had been completed in 2010 and would be the subject of a workshop designed to gather feedback and expert recommendations. It would then be submitted to the Council of Ministers.

3. The Government had so far issued well over 3 million land title deeds. Consideration was given to the rights of indigenous communities, which enjoyed more land rights than other citizens, since their members could hold collective rights to community land as well as having the individual ownership rights available to the entire population. The land registration system was a participatory one, and indigenous communities were consulted throughout the process. As of 2014, the lands of 8 of the indigenous communities in Cambodia had been registered and the issuance of title to the lands of another 10 communities was under way.

4. Legislation designed to strengthen and ensure the independence of the legal and judicial system had recently been adopted by the National Assembly. Comprehensive electoral reforms had been introduced in the light of the demonstrations that had followed the previous elections, and the two main political parties had agreed to adopt a culture of dialogue and negotiation so as to avoid social unrest, which could lead to the violation of citizens' rights and threaten the country's security. A law to reform the electoral process was currently being drafted. Freedom of expression was enshrined in United Nations human rights instruments to which Cambodia was a party and the Cambodian Constitution. The Government did not restrict freedom of expression so long as the law and the rights of others were not infringed upon and the country's security was not threatened.

5. **Ms. Waterval** asked for clarification regarding complaints from NGOs regarding their lack of access to court decisions. She would like to know whether the training workshops on the Covenant that were held for government officials were evaluated and, if so, what their impact was and whether such training was available to judges and law enforcement officials as well. She wished to know whether the annotated Criminal Code providing guidance on the interpretation and application of the Code's articles would be officially recognized as a source of law and whether judges would receive training concerning the direct applicability of the Covenant. She also wished to know when the law establishing a national human rights institution would be adopted by parliament. Trafficking in persons was a widespread problem in Cambodia, and civil society organizations had reported that information on victims was limited and contradictory and that police investigations were rare, with the result that few cases were prosecuted. She invited the delegation to respond to the questions regarding the trafficking of persons contained in paragraph 14 of the list of issues.

6. **Mr. Iwasawa**, referring to reports of the use of excessive force against female garment industry workers during a demonstration for higher wages, asked what measures had been adopted to improve conditions for women working in low-paid, unskilled jobs. He would appreciate information on the differing employment rates for men and women and on the gender wage gap, as well as on the measures taken to do away with stereotypes regarding the role of women, particularly in schools. He would also be interested to learn whether the results of the Neary Rattanak strategies for the achievement of gender equality had been evaluated.

7. There were reports that many ethnic Vietnamese in Cambodia were stateless and struggled to acquire nationality, birth certificates and identity papers, even though they met the requirements, because of the difficulties involved in submitting the necessary documentation and local authorities' unfamiliarity with the applicable laws. Furthermore, the opposition party reportedly engaged in discriminatory discourse targeting Vietnamese persons which in some cases led to violence. He invited the delegation to comment on those reports and on any measures to address the problem that might be planned.

8. Noting that Cambodian legislation did not prohibit discrimination on grounds of sexual orientation or gender identity and that lesbian, gay, bisexual and transgender (LGBT) persons were often disowned by their families and treated unfairly by the police, he asked whether there were plans to amend discriminatory legislation, work to put a halt to social stigmatization and raise awareness of LGBT issues. He would also be interested to learn why the State party did not recognize same-sex marriage. Lastly, he wished to know when the country's programmes for raising awareness regarding persons with disabilities would be evaluated and how the denial of the right to vote to persons with mental disabilities could be justified under the Covenant.

9. **Ms. Seibert-Fohr** said that sexual violence within marriage seemed to be widely accepted in the State party and, although it did appear to be on the decrease, remained a cause for concern. The Ministry of Women's Affairs had reported that the prevailing attitude in society was that men were stronger and more valuable than women and that some authorities felt that a husband's use of extreme violence against his wife was justified if she disobeyed him. According to some accounts, 35 per cent of Cambodian men had used physical violence against their spouse. There was therefore an urgent need for sustained efforts to prevent gender-based violence and to prosecute offenders. She would be interested to learn what weaknesses had been detected in the first National Action Plan to Prevent Violence against Women, how the second plan would address those shortcomings and how it would be evaluated. Noting that few cases involving gender-based violence were brought to trial, reportedly owing to corruption, negative attitudes held by judicial and law enforcement officials towards women and the high cost of the medical certificates used as evidence in rape and sexual assault cases, she asked how many cases had been prosecuted, how access to justice was facilitated and how the social stigmatization of women who took legal action against their husbands was addressed. Lastly, she wished to know how many victims of sexual violence committed during the Khmer Rouge regime had received redress and why the Supreme Court had ruled, in that connection, that rape could not be deemed to be a specific type of crime against humanity.

10. **Mr. Ben Achour** said that he would like to remind the delegation that the Covenant, if properly understood, should not be seen as a constraint on States parties but, rather as a means of helping them to improve the quality of governance. There appeared to be a significant discrepancy between the law, which was in many respects very much in line with international standards, and practice. That was a concern that the Committee had already raised in the concluding observations that it had issued in 1999. He found it regrettable that some of the replies to the list of issues were incomplete. In the light of the corroborating information that the Committee had received from a number of sources about

the deaths of human rights defenders, journalists and trade union leaders at the hands of security forces, he would appreciate hearing the Government's views regarding those incidents and learning whether there was any real political will put an end to that type of violation, what steps were being taken to combat impunity and whether members of the armed forces and the police received suitable human rights training. He wished to know what follow-up there had been to the visit request made by the Special Rapporteur on the situation of human rights defenders in 2012.

11. With regard to the reports, as previously mentioned, of the use of excessive force against protesters by private security personnel and others, he would like to know whether, even if the security forces' actions had indeed been taken in response to violence on the part of protesters, the principles of necessity, proportionality and the sanctity of life been respected. Had the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials also been upheld? Information on whether or not the offenders had been prosecuted would be of interest. What steps were being taken to ensure that security forces adhered to the Covenant? He invited the delegation to comment on claims by NGOs that the repression of strikes had in fact been a means of punishing political opponents of the Government. Between 2010 and 2014, NGOs had conducted interviews with nearly 8,000 prisoners, some of whom had described having been subjected to acts of torture and ill-treatment either during police operations or while in custody. He would be interested to learn about any measures, either planned or adopted, for curbing such endemic abuses.

12. **Mr. Rodríguez-Rescia** said that, while he commended the State party on its cooperation with various international partners in the area of policy-building in respect of the prison system, it would be preferable if the State party would initiate and lead those kinds of projects itself. The replies to the questions contained in paragraph 11 of the list of issues were quite brief, and it would appear that the State party would do well to pay greater attention to the situation of persons deprived of their liberty and adopt a comprehensive approach for reducing the use of custodial sentences. He would like to know why pretrial detention was the rule rather than the exception and why it often exceeded the statutory time limit. It would also be appreciated if the delegation would explain why nearly 65 per cent of persons deprived of their liberty were awaiting trial or definitive sentencing, why the authorities sometimes failed to notify convicts of the nature of their definitive sentence, why some people were serving more time than the penalty provided for by law and why many children continued to live with their imprisoned parent beyond the statutory age limit. He invited the State party to provide the requested data, disaggregated by gender and age, on the prison population and to describe the steps that were being taken to ensure that the different categories of prison inmates were segregated from one another.

13. Referring to reports that more affluent prisoners enjoyed significantly better conditions, including larger cells and longer family and conjugal visits, he asked whether the Government had adopted any specific measures to eradicate corruption. On the subject of mental health services in prisons, he would be interested to learn more about the State party's joint efforts with the International Committee of the Red Cross and the other partners mentioned in paragraph 15 of the replies to the list of issues. He was concerned that there did not appear to be any measures in place to assist inmates with mental problems and that the budget allocations for mental health services were so paltry. As psychiatrists appeared to be the only mental health professionals recruited to work in the prison system, he would like to know whether any type of non-medical approach to mental health was being taken. Had any investigation and/or proceedings been launched in connection with the case of a woman who had died in November 2014 while in detention? Lastly, he wished to know why drug users were forced rather than encouraged to seek treatment.

14. The State party might wish to consider increasing the budget for the prison system so that conditions could be brought into line with international standards and using pretrial detention more sparingly. The availability of more resources would no doubt facilitate the effort to ensure that men and women inmates were separated from one another and to establish a separate juvenile justice system.

The meeting was suspended at 4.30 p.m. and resumed at 5 p.m.

15. **Mr. Mak** Sambath (Cambodia), recalling that Cambodia was a member of the Association of Southeast Asian Nations (ASEAN), that is was a signatory to many international conventions and that it had a democratically elected Government, said that the Committee members' comments were not accurate reflections of the situation in Cambodia. As for the earlier question regarding the status of the bill on the establishment of a national human rights institution, it should be noted that the bill had been finalized, but that its adoption by the Council of Ministers and parliament was on hold pending additional input from civil society organizations.

16. The Cambodian Human Rights Committee visited prisons monthly. He urged the Committee to liaise with the Office of the United Nations High Commissioner for Human Rights (OHCHR) in order to obtain a more accurate picture of prison conditions in Cambodia. Pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government had set up a national preventive mechanism in August 2009 which monitored prisons, police detention facilities and drug rehabilitation centres. If torture was found to have been committed, the perpetrators were brought to justice. On the basis of individual interviews with prisoners, the Government had recommended a number of changes to improve the way in which some prison guards treated inmates. If the Committee had received reports of ill-treatment, it would have to provide more details on specific cases in order for the Government to be able to take action.

17. As to reports that wealthy prisoners "purchased" lengthier family and conjugal visits, the authorities had mandated the Cambodian Human Rights Committee and the Ministry of the Interior to look into the issue of prison visitation rights and would appreciate specific information regarding any such cases. Any prison officials engaging in such practices would certainly be held accountable for corruption. With regard to prison conditions, most prison buildings were unfortunately quite old. The Government was seeking to refurbish them and to construct new prisons with support, in some cases, from international development partners. Access to fresh air was guaranteed, and sports facilities had been built. Family members were permitted to provide inmates with money to buy food. Medical staff were assigned to prisons by the Ministry of Health. Children who lived in prison with their mothers should, in principle, be accommodated elsewhere as soon as they reached six years of age and began to attend school. In many cases, however, the mothers pleaded with the prison authorities to allow them to stay. If the mothers consented to their removal, the children could be accommodated at NGO centres or with relatives. No babies were born in prison. Expectant mothers were always moved to a hospital so that the baby's birth certificate would identify the hospital as the place of birth. The Government had released 22 women who were pregnant or had small children on 8 March 2015, International Women's Day. Others would be released on 14 April 2015, which was Cambodian New Year's Day.

18. The Ministry of Women's Affairs was taking vigorous action to address the issue of domestic violence and to ensure that perpetrators of such violence were held accountable under the Law on the Prevention of Domestic Violence and Protection of Victims. Violent husbands were arrested only if their wives consented to the arrest. When a wife subsequently pleaded to have her husband returned for the sake of their children, the husband could be released on bail on condition that he refrained from engaging in domestic

violence. Cambodian NGOs were encouraged to help the authorities to deal with the problem. Rape and acid attacks against women were rare, since legal action would most certainly be taken in such cases. The credibility of reports that 35 per cent of Cambodian men had used physical violence against their spouses was dubious, but any specific information that the Committee could provide would be welcomed by the authorities so that they could take the requisite action.

19. **Mr. Pol** Lim (Cambodia) said that the Cambodian authorities never prevented a person who was legally resident in the country from obtaining an identity card. Children who were born in Cambodia could obtain a birth certificate but did not necessarily qualify for Cambodian citizenship. A survey had been conducted of persons of 22 different nationalities, including Vietnamese, who were currently resident in Cambodia, and no cases of discrimination had been identified. With regard to the LGBT community, the Government had been urged by activists to enact an anti-discrimination law, but there was no indication that members of that community were actually discriminated against. People with physical or mental disabilities that rendered them unable to work required a medical certificate attesting to their status. If people with physical disabilities were unable to reach polling stations to cast their vote, transport facilities were provided for them. The Ministry of the Interior had requested that local authorities address disability-related issues, and the Government had created support centres for people with disabilities.

20. The Law on Peaceful Demonstrations provided for certain restrictions on protests where necessary. If violent demonstrations led to injuries, deaths or disappearances, investigative police officers took action to bring the perpetrators to justice. Persons who had sustained injuries or whose property had been damaged were compensated. The Law on the Press guaranteed freedom of expression without discrimination. It was not permissible, however, for such rights and freedoms to be abused in ways that would do harm to other persons. A law on access to information was currently being drafted. While some NGOs had criticized the Ministry of the Interior for drafting a law on State secrecy, the fact was that virtually every country had enacted a law of that sort.

21. A number of different ministries had worked together to draft a law on the juvenile justice system. Under the new law, prisons for women and juveniles would come under the authority of the Ministry of Social Affairs, Veterans and Youth Rehabilitation. The final draft would be discussed at a national workshop with a view to obtaining feedback and recommendations from NGOs. The Ministry of Justice had considered the issue of prisoners with infectious diseases at some length and had decided that they should be accommodated in separate cells. Drug-related issues were also being considered in cooperation with NGO partners. A law on associations and non-governmental organizations had been drafted and was awaiting enactment.

22. **Mr. Ith** Rady (Cambodia) said that Cambodia had recently enacted three new laws concerning the administration of justice: a law on the organization of the courts, a law on the status of judges and prosecutors, and a law on the Supreme Council of the Magistracy. An administrative body would be established to support the work of the courts at all levels. Members of the Supreme Council of the Magistracy would be based at their own secretariat but would also visit courts in all the provinces in order to monitor their performance. An internal disciplinary committee would deal with cases in which judges or prosecutors were accused of misconduct. An ad hoc inspection team would look into all complaints regarding the actions or performance of judges and prosecutors. Many Cambodian judges had already studied human rights issues at university, since human rights was a subject that formed part of the law degree curriculum. The possibility of providing further training in human rights for judges was being considered. The best practice of the Extraordinary Chambers in the Courts of Cambodia served as a model for the administration of courts at all levels under

the new legislation. Various changes had been made, including, for example, the modification of the allowable duration of pretrial detention.

23. The number of cases of human trafficking differed from year to year. The fact that fewer sentences had been handed down during a given period did not mean that the courts were failing to take legal action against traffickers.

24. Prisons in Cambodia were admittedly overcrowded. The General Department of Prisons had requested increased budgetary allocations so that new prisons could be built in the provinces. Courts were being encouraged to keep accused persons under supervision rather than placing them in custody. Community service was another recommended alternative to incarceration. Judges were as yet unfamiliar with those options, since the move towards a greater use of non-custodial measures was a relatively new development, but they would undoubtedly embrace such measures in due course.

25. **Mr. Ney** Samol (Cambodia) said that the report, which had been issued in 2012, stated that Cambodia had ratified six core international human rights treaties. It had since signed, ratified or acceded to the following additional core treaties: the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

26. **The Chairperson**, noting that the delegation had requested that Committee members provide it with more specific information regarding certain issues, said that at least 18 documents containing relevant information could be accessed on the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR). Information could also be obtained from the documents issued by other United Nations human rights treaty bodies. In closing, he urged Cambodia to ratify the Optional Protocol to the Covenant, which it had signed in 2004.

The meeting rose at 6.05 p.m.

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Summary record of the 3139th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 18 March 2015, at 10 a.m.

Chairperson: Mr. Salvioli

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Second periodic report of Cambodia (continued) (CCPR/C/KHM/2; CCPR/C/KHM/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Cambodia took places at the Committee table.*

2. **Mr. Ben Achour** said that, in the light of comments made by the head of delegation at the previous meeting, he would like to make a number of general points. First of all, he wished to make clear that the Committee's role was to engage in a constructive dialogue with States parties in order to assist them in meeting their obligations and thereby ensure effective protection for the rights set forth in the Covenant. The Committee did not operate as a court and it did not pass judgement on States parties. Second, the reports by NGOs and civil society representatives to which the Committee referred during its dialogue with States parties were publicly available, including on the website of the Office of the United Nations High Commissioner for Human Rights. The Committee did not vouch for the veracity of the information contained in those documents but rather sought to give States parties an opportunity to reply to any allegations made therein. Furthermore, it was important for States parties to engage actively with all stakeholders, such as NGOs, in order to gain a comprehensive view of the human rights situation at the national level. However, at the previous meeting, the head of delegation had given the impression that he was not familiar with the activities of NGOs in Cambodia. He therefore urged the State party to make contact with those organizations and to work with them. He also called on the delegation to reply to a number of questions put by Committee members at the previous meeting that had gone unanswered, including on such important issues as the right to life, impunity for perpetrators of serious human rights violations and alleged political bias among law enforcement agencies. Lastly, he wished to assure the delegation that all his comments had been made in a constructive spirit.

3. **Mr. Rodríguez-Rescia**, referring to the issue of the mental health of persons deprived of their liberty raised during the previous meeting, said that the security reasons cited by the delegation were not justifiable grounds for allowing inmates only 30 minutes of outdoor activity per day. Turning to the delegation's denial of the existence of torture in places of detention, he said that the cumulative effect of cruel, inhuman or degrading treatment could amount to torture and that it was with that in mind that the Committee had raised concerns during the previous meeting about the very poor conditions in prisons. It was important that the State party should take appropriate steps to remedy those conditions with a view to improving the health of inmates. As the interministerial body responsible for the monitoring of places of detention in the State party did not meet the standards required under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government should establish an independent preventive mechanism. He asked the delegation to confirm whether international bodies, such as the International Federation of Red Cross and Red Crescent Societies, and national civil society organizations were able to carry out monitoring visits to places of detention. He also wished to know what the Government was doing to tackle the problem of drug consumption among prison inmates. Lastly, he asked the delegation to provide updated official statistics on the follow-up given by the prosecution service to complaints of torture and cruel, inhuman or degrading treatment.

4. **Mr. Ney** Samol (Cambodia) said that he first of all wished to clarify that the reason that some questions had gone unanswered at the previous meeting was that there had been insufficient time available to the delegation to address all the issues that had been raised.

He also wished to reaffirm his Government's full commitment to the promotion and protection of human rights. That commitment was demonstrated by, among other things, the free exercise of freedom of expression by an array of national and international media outlets and the presence of thousands of NGOs in Cambodia. Furthermore, since 1993 the State party had received country visits from no less than five Special Rapporteurs on the situation of human rights in Cambodia.

5. Turning to questions that had been raised at the previous meeting, he said that his Government would indeed draw on the lessons learned from the experience of the Extraordinary Chambers in the Courts of Cambodia in order to further develop the national court system. He reiterated his Government's determination to put an end to impunity and to hold the leaders of the Khmer Rouge regime accountable for their acts.

6. Although no specific law was yet in force concerning the rights of lesbian, gay, bisexual and transgender (LGBT) persons, the Government sought to prevent discrimination against those persons. While it was the case that isolated discriminatory acts were committed against LGBT communities by individuals or small groups of people, such acts did not reflect government policy.

7. The State party had ratified the International Convention for the Protection of All Persons from Enforced Disappearance. His Government was committed to meeting its obligations under the Convention and cooperated fully with the Committee on Enforced Disappearances on a regular basis through its Permanent Mission in Geneva. As to the alleged enforced disappearance on 3 January 2014 of Mr. Khem Sophath, the competent national authorities were working tirelessly to establish the facts of the case.

8. Although the State party had not extended a standing invitation to the Special Rapporteur on the rights to freedom of peaceful assembly and of association, that mandate holder had in fact visited Cambodia on several occasions. The budget allocation for persons with mental disabilities was decided taking into account the overall availability of resources and the priorities that had been set. It was important to bear in mind that Cambodia was a least developed country and that the Government was operating under severe budgetary constraints. As to the supposed lack of gender balance within the delegation, such a situation was not uncommon – even within the United Nations system. For instance, all five of the Special Rapporteurs on the situation of human rights in Cambodia to have been appointed since 1993 had been men.

9. In order to fully understand the situation regarding the voting rights of persons with mental disabilities in Cambodia, it was necessary to read paragraphs 230 and 231 of the State party's report (CCPR/C/KHM/2) together. Those paragraphs made clear that the Government did not discriminate against persons with disabilities and that the only such persons not entitled to vote were those who had been declared incapable of exercising their voting rights by the Ministry of Health or a competent institution.

10. **Mr. Mak** Sambath (Cambodia) said that the Government was taking steps to improve gender balance in leadership roles at all levels of the State. Currently, 20 per cent of senior posts in public institutions were held by women. In addition, the Ministry of Women's Affairs was working to mainstream gender equity and to raise awareness of the issues involved. The Government was working hard to promote human rights and ensured that country reports by the Office of the United Nations High Commissioner for Human Rights were made as widely available as possible to the public at large.

11. **Mr. Pol** Lim (Cambodia) said that over four thousand NGOs and civil society associations were operating effectively in Cambodia. The Government was determined to combat impunity and took all reports of killings and cases of enforced disappearance seriously. The competent authorities were working tirelessly to tackle the very large number of historical cases of enforced disappearance dating back to 1979. With reference

to the reported killings of journalists mentioned in paragraph 8 of the list of issues (CCPR/C/KHM/Q/2), he said that the investigating authorities had submitted three case files to the courts.

12. With regard to the level of health of the prison population, he said that some detainees were already ill before they entered the prison system, while others claimed to be ill in order to be sent to hospital. As to the separation of inmates according to categories, the authorities ensured that there was separation between juveniles and adults, untried and convicted prisoners and men and women.

13. **Mr. Iwasawa** asked the delegation to confirm that the Government intended to comply with its obligations to pay the salaries and emoluments of Cambodian personnel of the Extraordinary Chambers in the Courts of Cambodia. He welcomed the statement contained in paragraph 18 of the State party's replies to the list of issues (CCPR/C/KHM/Q/2/Add.1) to the effect that the Office of the Co-Investigating Judges of the Extraordinary Chambers would continue its investigations into case files 003 and 004 without any interference. However, according to information before the Committee, the Government was reportedly interfering with the functioning and independence of the Extraordinary Chambers and the Prime Minister and other ministers were said to have made public statements to the effect that cases beyond 002 should not proceed. He would therefore like to know how the Government planned to ensure, in practice, that the Extraordinary Chambers in the Courts of Cambodia would be able to perform their functions independently without any interference.

14. He noted that, according to reports, land laws were poorly implemented, land concessions continued to be granted for economic reasons and communal land titling procedures were prohibitively complex and expensive. It was also claimed that the interministerial circular mentioned in paragraph 42 of the replies to the list of issues (CCPR/C/KHM/Q/2/Add.1) provided protection only to persons who had already applied for communal land titles. He invited the delegation to comment on those points. The delegation should also describe how the Government ensured that indigenous peoples were consulted prior to the granting of concessions, as well as what was being done to guarantee the continuation of consultations once temporary protection measures had been lifted.

15. **Ms. Seibert-Fohr** asked how the State party intended to increase the number of lawyers and give effect to the rights enshrined in article 14 of the Covenant. She enquired about the reasons behind the 24-hour rule established in article 98 of the Code of Criminal Procedure and the mechanisms in place to ensure that detainees were informed of their rights.

16. She wished to know the extent to which the three laws listed in paragraph 23 of the replies to the list of issues had been accessible to civil society and subject to public debate prior to their adoption. The delegation should elaborate on the composition of the Supreme Council of Magistracy and comment on reports that the Minister of Justice was automatically a member and had the right to appoint other members. The delegation should also indicate whether the Promotion and Career Progress Commission was chaired by the Secretary of State for Justice; it should also specify the role of the Ministry of Justice in allocating the judicial budget and state whether the budget was adequate.

17. She asked what mechanisms were in place to prevent corruption and political interference in the judiciary and what grounds could be invoked for the removal of judges. In particular, she wished to know whether judges could be removed because of the content of their decisions. The delegation should also: outline the legal basis for dismissing the president of Phnom Penh Municipal Court in February 2015, while describing the procedure followed and the role played by the Supreme Council of Magistracy; state

whether disciplinary measures were subject to review; and indicate the extent to which the Government voiced criticism of judicial decisions.

18. She wished to know how frequently confessions provided the basis for criminal convictions and whether they obviated the need to conduct investigations. Noting with concern the information provided in paragraph 26 of the replies to the list of issues, she asked what steps had been taken to combat coercion, how many officials had been prosecuted for extracting confessions and whether law enforcement officers received financial incentives for securing convictions.

19. She asked whether the process of electoral reform had resulted in any concrete changes and, if so, whether they had been debated publicly with the participation of civil society. The delegation should supply information on the composition of the National Election Committee and explain what was done to guarantee its independence. She wished to know what steps had been taken to address alleged irregularities during the 2013 general election and ensure that they did not occur again. In particular, she would appreciate information on any independent inquiries conducted and on any mechanisms to investigate irregularities. She asked whether election laws provided for recounts in polling stations and equal media access for, and use of State resources by, political parties. She also wished to know whether insulting political opponents was punishable under domestic law and, if so, how such provisions were compatible with article 19 of the Covenant. She invited the delegation to respond to claims that opposition parliamentarians had been arrested and charged in 2014 and, if the allegations were true, to provide details on the reasons given and procedures followed.

20. Noting reports that many Khmer Krom and Vietnamese Cambodians were stateless or lacked the necessary documentation to prove their citizenship, she asked what had been done to resolve the issue and inform people about the naturalization process, which she invited the delegation to describe.

21. **Ms. Waterval** expressed concern that the Criminal Code provisions mentioned in paragraph 30 of the replies to the list of issues imposed unnecessary restrictions on the freedoms of expression, peaceful assembly and association. In that connection, she asked how many journalists and human rights defenders had been prosecuted for defamation, disinformation or incitement. The delegation should comment on reports of threats to prosecute journalists under the Criminal Code rather than the more lenient press law. She asked whether the Government would consider amending the Code to ensure compliance with article 19 of the Covenant and urged the State party to bear in mind the provisions of that article when drafting the bill on cybercrime.

22. She invited the delegation to elaborate on the regulations governing the use of freedom parks and comment on reports that roadblocks had been used to prevent access and that peaceful protesters had been arrested and released only after signing documents promising not to participate in future demonstrations. She would also appreciate information on the legal status of municipal security guards and their role in demonstrations. Lastly, the delegation should indicate when the bill on trade unions and the bill on associations and NGOs would be submitted to the National Assembly.

23. **Mr. Rodríguez-Rescia** asked whether the State party would consider amending or repealing article 950 of the Civil Code, which discriminated against divorced women, and lifting the restrictions based on age and income that had been imposed on marriages between foreign men and Cambodian women. Noting that the State party had not yet established a juvenile justice system in accordance with international standards, he asked when the bill on juvenile justice would be adopted.

24. **Mr. Ben Achour** asked what steps were being taken to eliminate child labour and corporal punishment, which was still permissible under article 1,045 of the Civil Code, and improve birth registration by, inter alia, reducing regional disparities.

25. **Mr. de Frouville** asked whether the State party would consider amending the definition of genocide in domestic law, whether genocide and other international crimes were subject to universal jurisdiction and whether additional measures would be adopted to try individuals for crimes committed during the Cambodian genocide and to establish truth and justice.

26. **Ms. Cleveland** asked about the status of the bill on cybercrime and the bill on associations and NGOs. The delegation should indicate whether amendments were planned in response to allegations that the bills contained excessive restrictions and vague language. It should also describe any efforts taken during the drafting process to consult civil society and ensure that the bills were in line with international standards. Noting that the bill on cybercrime was not publicly available, she recalled the importance of transparency in order to protect the rights to information and participation in public affairs, and to avoid undermining public confidence in the law-making process. She also urged the State party to ratify the Optional Protocol, particularly in the light of concerns regarding the independence of the judiciary.

27. **Sir Nigel Rodley**, in reference to paragraph 230 of the State party report (CCPR/C/KHM/2), asked whether there was a blanket ban on prisoners voting and, if so, how such a measure could be reconciled with international provisions, including article 10 of the Covenant, which established that the main purpose of detaining individuals should be their reformation and social rehabilitation.

The meeting was suspended at 11.45 a.m. and resumed at 12.05 p.m.

28. **Mr. Ney** Samol (Cambodia) said that payment of the salaries of national staff working for the Extraordinary Chambers in the Courts of Cambodia had been delayed, not refused. The Government always honoured its commitments and had since paid the outstanding amounts. It had no influence over investigations into case files 002/01, 003 or 004. Disagreements between judges over whether to pursue a case would be resolved in accordance with the agreement that had led to the establishment of the Courts.

29. **Mr. Ith** Rady (Cambodia) said that the country was experiencing a shortage of lawyers. Moreover, most lawyers worked in the private sector and avoided rural and remote areas where the residents could not afford their fees. Therefore, in order to ensure access to legal counsel for all persons the Bar Association of the Kingdom of Cambodia sent officially appointed lawyers to remote areas when necessary. Such appointments were sometimes delayed owing to the limited numbers of lawyers. Currently, persons held in detention were afforded fundamental legal safeguards after 24 hours of their detention but the Ministry of Justice was reviewing the Code of Criminal Procedure with a view to guaranteeing access to a lawyer from the outset of a detention.

30. The Law on the Organization and Functioning of the Courts, the Law on the Supreme Council of Magistracy, and the Law on the Status of Judges and Prosecutors had been in the drafting phase for many years owing to extensive consultation with civil society, but should be presented to Parliament within the following six months. Members had been nominated for the Supreme Council of Magistracy from a range of judicial bodies and most were legal specialists. The list of nominations would be submitted to the King for royal approval before the members were appointed.

31. An anti-corruption unit had been established to combat corruption in the judicial system and two officials of the judiciary had been sentenced in that regard. Another unit under the Supreme Council of Magistracy was competent to receive complaints about and

launch investigations into corruption in the judicial system. The President of the Phnom Penh Municipal Court had been removed from his position following complaints of corrupt activities and the case was under investigation. Confessions obtained under torture were not admissible in a court of law. However, where the individuals concerned or their lawyers could not prove that they had been subjected to acts of torture, the courts usually accepted the confessions.

32. The purpose of the provision in the Civil Code stipulating that women did not have the right to remarry until 120 days had elapsed from the time of their divorce was to protect women and children. Women were entitled to remarry after those 120 days provided they obtained a medical certificate stating that they were not pregnant.

33. Although no separate juvenile justice system was in place, certain provisions in the Criminal Code covered procedures concerning young persons in court cases. Moreover, a law on a juvenile justice system in accordance with international standards had been formulated and would be submitted to the Council of Ministers. In that connection, consultations with civil society and NGOs and been held, and work was being carried out with UNICEF. The challenges in implementing that law could be foreseen and included allocating resources for the construction of rehabilitation centres, training staff in the care of juvenile offenders and providing facilities in remote areas.

34. The minimum working age set out in domestic law was 15 years and regulations prohibiting child labour were widely disseminated throughout the country. The labour inspectorate monitored child labour in workplaces and removed any children found to be working. Initiating prosecutions against employers was complicated, however, since many children worked with the consent of and even alongside their parents. Prosecuting and sentencing the parents was also questionable, as it was likely to result in the abandonment of their children. The law allowed parents to administer minor corporal punishment on their children.

35. **Mr. Pol** Lim (Cambodia) said that the Law on Nationality provided for most residents living legally in the country to apply for Khmer nationality. Under Sub-Decree No. 103 on the civil registry the local authorities were required to register all births. In addition, legislative amendments were being made to enable persons who had lost their identity documents during the Khmer Rouge regime to register and to claim new documents. Freedom of expression was safeguarded for the media and demonstrators. Any protests that were considered to threaten national security or social order were temporarily or permanently suppressed by the authorities. Work had been completed on the draft law concerning NGOs.

36. **Sir Nigel Rodley** expressed concern about the need to prove that acts of torture had been committed in cases of the use of forced confessions as elements of evidence in court proceedings. It was disturbing to note that judges did not automatically make inquiries when allegations were made of confessions extracted under torture because the nature of imprisonment rendered it virtually impossible for victims to prove that they had been subjected to torture. The burden should be on the prosecution to prove that the information was given freely, if that assumption was challenged. If that was not the case in the State party, the Committee would formulate a recommendation to that effect.

37. **Mr. Rodríguez-Rescia** said that the Committee needed more information in response to its various questions. Would the State party make a commitment to passing the draft law on the juvenile justice system which had been pending for many years? The deficiency in the juvenile justice system could only be rectified by making systemic changes. He wondered why the State party did not use existing technology in legal cases involving juvenile offenders. Would the State party also undertake a commitment to allow United Nations agencies and other independent bodies to carry out monitoring visits in

places of detention? Would the State party provide more information on the possibility of granting detainees the right to vote and sufficient access to fresh air? In addition, he was deeply concerned that no legal counsel was provided to detainees for the first 24 hours of their detention and that persons arrested and held in places of deprivation of liberty were not registered, which generated endemic corruption, such as payments to the police so that charges were dropped. He agreed that a culture change was essential in order to properly tackle domestic violence and child labour in the country. Would the State party take all those details into account in policymaking?

38. **Mr. Ney** Samol (Cambodia) wondered whether the Committee members were expecting prescribed answers. He added that domestic law prohibited the vote for all convicted persons and that the State party upheld the presumption of innocence for all persons.

39. **Mr. Mak** Sambath (Cambodia) thanked the Committee for the constructive dialogue. The delegation had made efforts to answer all questions honestly. It looked forward to further cooperation with the Committee and would take account of all the Committee's recommendations.

40. **The Chairperson** said that the only reason the Committee requested further information was to gather a full picture of the country's human rights situation in order to be in a position to cooperate and assist the State party in fulfilling its international obligations. Delegations before the Committee represented all three branches of power – not only the Government of the country. He thanked the distinguished delegation for their engagement with the Committee and expressed the hope that the Committee could consider the State party's next periodic report before too long.

The meeting rose at 1.05 p.m.